

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q64768

Herve GAUDILLAT

Appln. No.: 09/871,816

Group Art Unit: 2616

Confirmation No.: 1966

Examiner: John SHEW

Filed: June 4, 2001

For: A METHOD OF MANAGING A TELECOMMUNICATION NETWORK AND A
NETWORK MANAGEMENT UNIT FOR IMPLEMENTING THE METHOD

SUBMISSION OF APPEAL BRIEF

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents

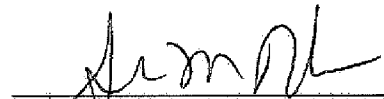
P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Submitted herewith please find an Appeal Brief. Please charge the statutory fee of \$500.00 to Deposit Account No.: 19-4880. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this paper is attached.

Respectfully submitted,



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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the provisions of 37 C.F.R. § 41.37, Appellant submits the following:

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I. REAL PARTY IN INTEREST

The real party in interest is ALCATEL by virtue of an assignment executed by Herve Gaudillat (hereinafter "Appellant") on April 11, 2001 and recorded in the U.S. Patent and Trademark Office on June 4, 2001 at reel 011877 and frame 0890.

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II. RELATED APPEALS AND INTERFERENCES

Upon information and belief, there are no other prior or pending appeals, interferences or judicial proceedings known to Appellant's Representative or the Assignee that may be related to, be directly affected by, or have a bearing on the Board's decision in the Appeal.

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III. STATUS OF CLAIMS

Claims 1-8 are pending and are the basis of this Appeal.

Claims 1-8 stand rejected. See Claims Appendix for listing of claims.

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IV. STATUS OF AMENDMENTS

Appellant did not amend the claims subsequent to the March 8, 2006 Final Office Action. Accordingly, all amendments, which have been made during prosecution of the present application, have been entered and are reflected in the attached Claims Appendix.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention is directed to managing a telecommunication network. The features of independent claim 1 are described herein in reference to non-limiting embodiments of Appellant's specification.

Claim 1 - Claim 1 recites a method of managing a telecommunication network including receiving connection requests, the connections being determined on the basis of parameters contained in the requests and including time parameters (Fig. 2; pg. 5, lines 3-11 and lines 21-24). The possibility of setting up the connections, in accordance with the parameters, is verified on the basis of a database in which all connections are stored (pg. 5, lines 21-24). Further, the database is updated if the connection setup is possible (pg. 5, line 21 to page 6, line 11).

The receiving of connection requests, the verifying of the possibility of setting up the connections, and the updating of the database are performed by a scheduler program PGA which spans a services management layer SML and a network management layer NML (Fig. 1; pg. 4, lines 24-26; pg. 5, lines 7-8).

Claim 7 - Claim 7 recites a telecommunication network management unit including means PGA for receiving connection requests, the connections being determined on the basis of parameters contained in the requests and including time parameters (Fig. 2; pg. 5, lines 3-11 and lines 21-24). The claim further recites a means GA for verifying the possibility of setting up the connections in accordance with the parameters, on the basis of a database BR in which all calls are stored (pg. 5, lines 21-24). A means PGA for updating the database is provided, and a means

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PGA for reserving connections allowing for time parameters (pg. 5, line 21 to page 6, line 11).

The means for receiving connection requests PGA spans a services management layer and a network management layer (Fig. 1; pg. 4, lines 24-26; pg. 5, lines 7-8).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 1, 4, 5, 6, 7 and 8 stand rejected under 35 U.S.C. § 103(a), as allegedly being unpatentable over U.S. Patent No. 6,092,113 to Maeshima ("Maeshima") in view of Appellant's alleged Admitted Prior Art ("alleged APA").

B. Claims 2 and 3 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Maeshima in view of the alleged APA and U.S. Patent No. 6,115,382 to Abe ("Abe").

VII. ARGUMENT

I. Rejections under 35 U.S.C. § 103(a) in view of U.S. Patent No. 6,092,113 to Maeshima (“Maeshima”) and Appellant’s alleged Admitted Prior Art (“alleged AAPA”).

A. Claim 1

Claim 1 recites a scheduler program which spans a services management layer and a network management layer.

The Examiner acknowledges that Maeshima does not disclose the scheduler program, but continues to maintain that the alleged AAPA does.

As set forth in the May 18, 2006 Response, the portion cited by the Examiner as the alleged “AAPA” is in fact, not prior art. Rather, the cited portion forms part of the present invention. Appellant submits that the Examiner is failing to consider the clear, unequivocal statements in the specification which describe the scheduler program PGA as a feature of the present “invention.”

In the Brief Description of the Drawings section, the specification clearly discloses that although Figure 1 depicts a prior art three layer management system, Figure 1 also shows the location at which the invention is *implemented* (pg. 4, lines 24-26) (i.e., the PGA of the invention is added as a separate feature of the three layer management system). In the Description of the Prior Art section, the specification further discloses that the “invention” is located at the interface of the NML and the SML as shown in Figure 1. The PGA, labeled in Figure 1, and located at the interface of the NML and the SML, is specifically described as a feature of the present invention

in the non-limiting embodiment on page 5, lines 7-8 of the Detailed Description portion of the Application.

In response to the above arguments, the Examiner maintains that the specification, page 4, line 24, “clearly” states Figure 1 to be prior art, and therefore, all elements of Figure 1 are considered to be prior art since, “there is no clear demarcation” (June 19, 2006 Advisory Action). By virtue of the above statement, Appellant submits that the Examiner has improperly truncated the sentence on page 4 of the specification. For example, as set forth above, the end of the sentence beginning at page 4, line 24, discloses that Figure 1 indicates the location at which the invention is implemented.

Applicant submits that the Examiner’s statement of there being no “demarcation” for the elements in Figure 1 is entirely unsubstantiated for the reasons presented above, e.g., (1) lines 25-26 of page 4 specifically indicate that Figure 1 shows where the invention is implemented, and (2) the PGA, specifically described as a feature of the present invention, is described in more detail on page 5, lines 7-8, as is stated as being labeled in Figure 1 and located at the interface of the NML and the SML. Thus, Appellant submits that there is a clear demarcation in the specification.

In summary, since the specification *clearly* indicates that the portion cited in Figure 1 (i.e., the PGA) is part of the present “invention,” and not the prior art, Appellant submits that the PGA does not constitute prior art, and therefore, cannot be used to cure the deficient teachings of Maeshima. For at least this reason, Appellant submits that claim 1 is patentable over Maeshima.

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In addition, claim 1 recites that, “the step of receiving connection requests, the step of verifying the possibility of setting up the connections, and the step of updating said database are preformed by a scheduler program which spans a services management layer and a network management layer.”

As set forth in the January 28, 2005, June 17, 2005, January 26, 2006, and May 18, 2006 Amendments/Responses, Maeshima merely discloses that routers (e.g. 300A, 300, and 300B) on an IP tunnel 101 transmit and receive packets which correspond to the “[contents] of a reservation [request];” (Col. 5, lines 47-48). Even if it were assumed *arguendo* that the information contained in the packet also corresponds to a designated date and time for reserving bandwidth on the IP tunnel 101, since the packet is transmitted and received between the router at the start point of the IP tunnel 101 (e.g. 300A) and the router at the end point of the IP tunnel 101 (e.g. 300B), Maeshima simply does not teach that the step of receiving connection requests is performed by a scheduler program which spans a services management layer and a network management layer as claimed.

Appellant submits that, as of the June 19, 2006 Advisory Action, the Examiner has not responded to the above argument.

Based on the foregoing, Appellant submits that claim 1 is patentable over the cited references.

B. Claim 7

Claim 7 recites, “wherein the means for receiving connection requests spans a services management layer and a network management layer.” Accordingly, Appellant submits that claim 7 is patentable for at least analogous reasons as set forth above for claim 1.

C. Claims 4, 5, 6 and 8

Since claims 4, 5, 6 and 8 are dependent upon one of claims 1 or 7, Appellant submits that claims 4, 5, 6 and 8 are patentable at least by virtue of their dependency.

II. Rejections under 35 U.S.C. § 103(a) in view of Maeshima, the alleged AAPA and U.S. Patent No. 6,115,382 to Abe (“Abe”)

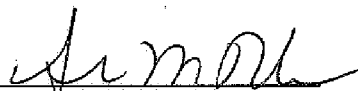
The Examiner has rejected claims 2 and 3 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Maeshima, the alleged AAPA and Abe. However, since claims 2 and 3 are dependent upon claim 1, and Abe fails to cure the deficient teachings of Maeshima and the alleged AAPA, Appellant submits that claims 2 and 3 are patentable at least by virtue of their dependency.

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Unless a check is submitted herewith for the fee required under 37 C.F.R. §41.37(a) and 1.17(c), please charge said fee to Deposit Account No. 19-4880.

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CLAIMS APPENDIX

CLAIMS 1-8 ON APPEAL:

1. A method of managing a telecommunication network including:
 - receiving connection requests, said connections being determined on the basis of parameters contained in said requests and including time parameters,
 - verifying the possibility of setting up the connections in accordance with said parameters, on the basis of a database in which all connections are stored, and
 - updating said database if setting up said connection is possible,wherein the step of receiving connection requests, the step of verifying the possibility of setting up the connections, and the step of updating said database are performed by a scheduler program which spans a services management layer and a network management layer.
2. The network management method claimed in claim 1 wherein said time parameters correspond to series of time intervals having a periodic character.
3. The network management method claimed in claim 2 wherein said time parameters take the form of a duration of uses/reservations repeated daily and/or weekly and/or monthly and/or annually.

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4. The network management method claimed in claim 1 wherein said time parameters correspond to series of time intervals having an aperiodic character.

5. The network management method claimed in claim 4 wherein said time parameters include data corresponding to an absolute time and a finite or indefinite duration.

6. The network management method claimed in claim 1 wherein the updating of available connections in said database allows for said time parameters.

7. A telecommunication network management unit including:

- means for receiving connection requests, said connections being determined on the basis of parameters contained in said requests and including time parameters,
- means for verifying the possibility of setting up the connections in accordance with said parameters, on the basis of a database in which all calls are stored,
- means for updating said database accordingly, and
- means for reserving connections allowing for time parameters,

wherein the means for receiving connection requests spans a services management layer and a network management layer.

8. The network management unit claimed in claim 7 including means for updating connections in said network according to the content of said database, which contains

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reservations allowing for time parameters.

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EVIDENCE APPENDIX:

NONE

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RELATED PROCEEDINGS APPENDIX

NONE